

ADR Committee Meeting

March 24, 2005

Attendance:

In Person: Eleanor Barr
John Carpenter
Dixon Dern
Jane Garzilli
Susan Keenberg
Gerald Phillips

By Phone: Michael Carbone
Paul Dubow
Carol Medof
Carol Millie
Barry Newman
Edward Swanson

- I. Approval of Minutes of February 3, 2005 meeting - A request was made for the secretary to send the minutes again. Approval of February minutes will be addressed at the next meeting.
- II. New Member Introduction - Carole Mille was introduced as a new member of the Committee.
- III. Update on Retreat - Eleanor Barr and Mike Carbone reported on the retreat they attended. Both felt there is a need for the ADR Committee to show relevance for business lawyers, and the committee's focus should be on business law matters. Discussion followed concerning the possibility of working on a joint program with the Health Law Committee.
- IV.
 - A. Education Committee Update - The Business Law Section submitted 13 proposals for programs for the State Bar Annual Conference Program, of which, about 10 programs were chosen, including a program that will be presented by Ed Swanson and others on ADR Clauses. This program is scheduled for 10 a.m. to 12 noon on September 8, 2005.
 - B. New Project re Drafting ADR Clauses - Discussion concerning the need for a brochure or manual regarding drafting ADR clauses. Ed Swanson, Paul Dubow and Eleanor Barr will be the co-chairs of the project. There was agreement that the project would benefit business lawyers in drafting ADR clauses, and although it should not deal with specific clauses for each area of law, it would include appropriate provisions to be used by business lawyers for both mediation and arbitration. Members were asked to participate on this project.

- C. Potential Teleseminar and Webcast Program - Discussion of the cost benefit to do this type of program.
- D. ADR Practitioner of the Month - Discussion concerning the possibility of recognizing an ADR Practitioner each month, but general agreement the Committee did not want to do that at this time.
- V. Update on ADR current events - Paul Dubow reported on the case of Cronus Investments, Inc. v. Concierge Services, 35 Cal 4th 376. There are two holdings in the case. 1) A generic reference to California law in a contract includes its arbitration law. 2) CCP Section 1281.2(c) is not preempted by the FAA. Eleanor Barr reported on the Travelers Casualty & Surety v. Superior Court case, 126 Cal.App.4th 1131 (2005) in which the court of appeal held that a settlement judge has no authority to issue binding rulings on the parties in a mediation.
- VI. BLS ADR article submissions – BLS News is reviewing for possible publication Gerry Phillips’ and Susan Keenberg’s article entitled “Don’t be an impediment to a mediated settlement.”
- VII. Liaison’s update on ADR Committee and CDRC - Gerry Phillips as President of DRS, Inc. reported on the Dispute Resolutions Services, Inc.’s 2005 Awards Dinner that will take place on June 2, 2005. Part of the program will feature children acting as mediators to resolve a dispute between their peers.
- VIII. New Member Search - Eleanor Barr reported that we currently have 4 slots available.
- IX. ADR events - ABA conference on April 14 - 16, and DRS Dinner - June 2, 2005
- X. Adjourned - Meeting was adjourned at 2:00 p.m.
- XI. Update on Website